IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10767 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

ANIL HIRALAL

Appearance:

1. Special Civil Application No. 10767 of 1994

Mrs. Manisha L. Shah AGP for Petitioner No. 1

MR SN SHELAT for Respondent No. 1

MR VH DESAI for Respondent No. 2

MR MITUL K SHELAT for Respondent No. 2

NOTICE SERVED for Respondent No. 3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 18/10/2004

ORAL JUDGEMENT

1. This petition was filed by the State of Gujarat through the Section Officer of the Education Department challenging the order dated 18th August 1993 passed by the Gujarat Affiliated Colleges Services Tribunal, in Application No.122 of 1992.

2. The appointment of the respondent No.1 was approved by the respondent No.2, i.e. the Registrar, Gujarat University, Ahmedabad, as Computer Programmer in the respondent No.3-College in the pay-scale of Rs.550-900 as per the Government Resolution dated 8.4.1988.

3. The respondent No.1 filed Application No.122 of 1992 before the Gujarat Affiliated Colleges Services Tribunal, at Ahmedabad, with a prayer that his salary in the pay-scale of the Computer Programmer may be directed to be sanctioned by the Department and, on releasing the grant by the Department, the College, where the respondent No.1 was working, may be directed to pay the salaries accordingly. The contention of the respondent No.1 was upheld by the Tribunal. The Tribunal, by order dated 18th August 1993, allowed the application of the respondent No.1 and directed the opponents to grant salaries for the period between 3.3.1992 and 30.10.1992 in the pay-scale of Rs.2000-3500 with allowances as per rules. The College is directed to assess the pay bill accordingly and to send the same for sanction to the Department. The Department is directed to sanction the pay-scale and the salaries of the respondent no.1 within a period of 2 months from the date of receipt of the judgment.

4. Being aggrieved by the order dated 18th August 1993 passed by the Gujarat Affiliated Colleges Services Tribunal, in Application No.122 of 1992, the State of Gujarat filed the present writ petition under Articles 226 and 227 of the Constitution of India challenging the said order mainly on the ground that the Tribunal has failed to appreciate the fact that, with regard to laying down and regulating the pay-scale and allowances of the officers, members of the teaching staff, and academic and non-academic staff of the University, affiliated Colleges and recognized/approved Institutions, the approval of the State Government is necessary and, therefore, the Tribunal ought not to have passed the impugned order. It was further contended that the Tribunal could not have exercised the jurisdiction and, at the most, it could have only directed the Government to expedite the matter.

5. This Court, vide order dated 18th October 1994, issued rule making it returnable on December 20, 1994, and an ad-interim relief terms of paragraph 5(B) was granted on the condition that the petitioner sanctions the pay of the respondent No.1 in the scale of Rs.550-900 and releases necessary grant to the college, so that payment of salary for the period from 3.3.1992 to October 1992 can be made to the respondent No.1.

6. Thereafter, the matter was listed on number of occasions before the Court and, finally, on 21st January 2003, this Court (Coram: D.S.Sinha, C.J. as he then was) passed an order. In paragraph 5 of the order dated 21st January 2003, this Court has observed as under:
"Under the circumstances, the interim order dated 18th October 1994 is vacated. Consequently, the impugned order of the Tribunal has become executable. The respondent no.1 shall be at liberty to execute the same.".

7. In light of the order passed by this Court on 21st January 2003, the order challenged in this writ petition has now become executable and it is open to the respondent No.1 to take appropriate action to execute the said order and/or for implementation of the same.

8. With regard to the directions given by the Tribunal are concerned, they are based on the pay-scale which is already prescribed by the Gujarat University and even in the Government Colleges also, the same pay-scale was paid. The other direction to the Government is to sanction the said pay-scale. Since other similarly situated computer programmers were getting the pay-scale prescribed by the Gujarat University, there was no reason to deny the same pay-scale to the respondent No.1.

8.1 Under the circumstances, it cannot be said that the Tribunal has passed the order which can be said to be without jurisdiction or in any manner the Tribunal has exceeded its power to give the directions and, therefore also, the present petition deserves to be rejected. No other ground is made out by the petitioner.

9. In light of the above directions of this Court, no further order requires to be passed in the present petition. The petition is disposed of accordingly. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)